

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-056-00568R

Parcel No. 0404-45-21-25-314-0010

David M. Walsh,

Appellant,

v.

Lee County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 2, 2016. David Walsh was self-represented. County Attorney Mike Short represented the Lee County Board of Review.

The subject property is a one-story, residential dwelling located at 1129 Palean, Keokuk, Iowa. The dwelling was built in 1946 and has 1022 total square feet of living area; a full, unfinished basement; and an open porch. It also has a 480-square-foot detached garage built in 1948. The dwelling is listed in normal condition and with average quality construction (Grade 4-05). The site is 0.161 acres.

The property's January 1, 2015, assessment was \$44,950, allocated as \$7200 in land value and \$37,750 to improvement value. David Walsh, trustee for the property owner, protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property and the property was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b).

The Assessor and Deputy Assessor inspected the property in May 2015, and although the property was listed in normal condition, they noted it had deficiencies and needed repairs, which the Board of Review took into consideration. The Board of

Review reduced the assessment to \$37,700 by applying a 20% obsolescence factor, in addition to the existing 20% economic obsolescence adjustment

Walsh then appealed to PAAB. He believes the subject property's correct assessment is \$30,000.

Findings of Fact

Walsh asserts the subject property is inequitably assessed and over assessed. Walsh relies on his \$26,000 November 2013, purchase price to support his value opinion. He purchased the property at a public auction, which is not considered a normal arms-length transaction.¹ (Ex F). Walsh testified at length about the subject property's condition. He reports the property is uninhabitable and need a total rehabilitation, including replacement of drywall, lighting, electrical, flooring, bathroom, kitchen, appliances, water heater and air conditioning. He estimates these repairs will cost roughly \$9400. (Ex. 1). He also supplied pictures to verify the property's condition. (Ex. 4).

Walsh provided a spread sheet and property record cards for five area properties that he considers similar to his property, most of which had lower assessments. We note the spreadsheet Walsh provided contained some incorrect information and the following data is listed on the record cards. (Exs. 2 & 3).

Address	Yr Blt	Style	TSFLA	Base Fin	2015 AV	AV PSF
Subject	1946	1 sty	1022	Full/None	\$37,700	\$36.89
1127 Palean	1900	1 sty	1122	½ /None	\$37,170	\$33.13
1128 Palean	1900	1 sty	986	½ /336	\$24,830	\$25.18
518 S 12th	1910	1 sty	1118	¾ /None	\$29,220	\$26.14
516 S 12th	1910	2 sty	1818	½ /None	\$38,880	\$21.39
1124 Des Moines	1890	2 sty	1770	Full/None	\$30,180	\$17.05

First, we note that two of the properties are two-story dwellings; whereas the subject property is a one-story. Because it is cheaper to build up than build out, the

¹ The sales condition code used for his purchase was #24, which designates auction sales other than agricultural sales an abnormal sale condition on the Department of Revenue, *Sales Condition Code for Contract and Deed Sales Effective 8/31/15*.

costs associated with construction of a one-story dwelling are higher than for a two-story building with the same amount of above-grade living area. The properties at 1128 Palean, 518 S 12th, and 1124 Des Moines are in below-normal condition, which is inferior to the subject's normal condition. In addition, four of the properties have partial basements. The subject property is roughly fifty years newer than the comparables. These differences lead us to question whether the dwellings are similar to the subject property. Moreover, we note that only one property, located at 1127 Palean, sold in 2014. One comparable sale is insufficient to develop an assessment/sales ratio for equity analysis.

Walsh also prepared a spreadsheet of recent sales in Keokuk that he believed are comparable to his property; however, only two of these sales were normal transactions as compared to abnormal sales such as foreclosures. Since the subject sale and the other four identified sales involve abnormal sale conditions, the sales ratio they yield are not reliable indicators of value. The two normal sales are summarized in the following chart. (Exs. 5 & 6)

Address	Grade	TSFLA	2015 AV	Sale Price	Sales Ratio	Sale Conditions
Subject	5-00	1022	\$37,700	\$26,000	N/A	Foreclosure/Sheriff Sale
1027 Leighton	4+00	1269	\$41,830	\$30,000	139.43%	Normal
1102 Seymour	4+05	1970	\$73,600	\$44,500	165.39%	Normal

The ratios for the two normal sales suggest that the properties are over-assessed; however, we have little information verifying the actual sale condition for these transactions.

As previously noted, the Board of Review considered the subject property's condition and lowered the assessment. The Board of Review also relied on a list of 2014 and 2015 sales in support of its decision. (Ex E). The properties are all one-story dwellings like the subject property. (Ex A-D). The chart below lists the normal 2014 sales that are identified in the Board of Review's spreadsheets. Other sales are also listed on the exhibit; however, it does not specifically identify those sales as normal.

Address	Yr Blt	TSFLA	2015 AV	Sale Price	\$ PSF	Sales Ratio
Subject	1946	1022	\$37,700	N/A	N/A	N/A
1127 Palean	1900	1122	\$33,170	\$33,000	\$29.56	99.49%
1427 Des Moines	1910	868	\$39,590	\$41,250	\$45.61	95.98%
1423 Palean	1902	756	\$24,760	\$23,500	\$32.75	105.36%
1505 Palean	1956	1280	\$64,930	\$74,000	\$50.73	87.74%

The sale prices ranged from \$29.56 to \$50.73 per-square-foot, with a median of \$45.61 per-square-foot. The subject's assessed value of \$36.89 per-square-foot is at the lower end of the range, and it is nearly fifty years newer than the property that sets the low end of the range. The median assessment/sales ratio indicates the selected properties are assessed for only slightly less than their sale prices; however, we cannot determine that these properties support any reduction in the subject property's assessment.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. §

441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). In this case, Duster did not shift the burden, and therefore, must prove the assessment is inequitable based upon a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or must be adjusted to eliminate the effect of factors, which distort market value. *Id.*

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

First and foremost, the subject property's purchase price in November 2013 is not a reliable indicator of its value as Walsh admitted it was purchased at public auction. This type of purchase is considered an abnormal transaction under Iowa Assessment law, § 441.21(1)(b). Only if the abnormal sale can be adjusted can it be considered, and Walsh has offered no evidence to suggest this sale would not require adjustment. Moreover, a sale from November 2013 is somewhat removed from the January 2015 assessment date.

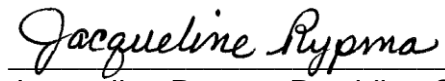
Additionally, Walsh offered no evidence of the subject's fair market value, such as an appraisal, comprehensive market analysis, or recent sales of comparable properties. Because Walsh purchased the subject property at auction, we do not consider the purchase price a reliable indication of value. Because there is no evidence of the subject's market value, we were unable to develop an assessment/sales ratio for Walsh's property as required by *Maxwell* to complete the equity analysis. The sales ratio completed by the assessor's office supports the assessments. (Ex. I). Similarly, the lack of this evidence means Walsh has not established the subject is assessed for more than authorized by law.

Order

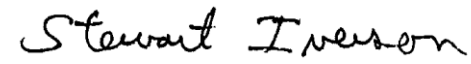
IT IS THEREFORE ORDERED that the Lee County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

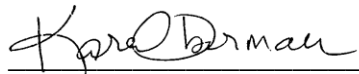
Dated this 30th day of March, 2016.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

David M. Walsh

Mike Short